

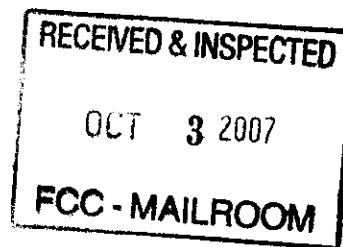
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State of Vermont
Public Service Board

September 28, 2007



Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW, Room TW – A306
Washington, DC 20554

Karen Majcher
Vice President, High Cost & Low Income Division
Universal Service Administrative Company
2000 L Street, NW, Suite 200
Washington, DC 20036

RE: Certification of Support for Rural and Non-Rural High-Cost Carriers Pursuant to
47 C.F.R. Sections 54.313-314, CC Docket Nos. 96-45 and 00-256

Rate Comparability Review Pursuant to 47 C.F.R. Section 54.316

Dear Secretary Dortch and Administrator Majcher:

In accordance with the Federal Communication Commission's rules, the Vermont Public Service Board submits its annual Federal Universal Service Fund certification and Rate Comparability review.

I. Federal Universal Service Fund Certification

In accordance with 47 CFR §§ 54.313 and 54.314, I certify that all federal high-cost funds flowing to the following eleven companies operating in Vermont will be used in 2008 in a manner consistent with 47 U.S.C. § 254(e) for the provision, maintenance, and upgrading of facilities and services for which support is intended.

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 **VERMONT**

In Vermont, there are three types of telecommunication carriers:

Nonrural

1. Verizon New England Inc. (formerly New England Telephone and Telegraph Company), d/b/a Verizon-Vermont (SAC 145115).

Rural

2. Franklin Telephone Company (SAC 140053).
3. Ludlow Telephone Company (SAC 140058).
4. Northfield Telephone Company (SAC 140061).
5. Perkinsville Telephone Company (SAC 140062).
6. Shoreham Telephone Company, Inc. (SAC 140064).
7. Topsham Telephone Company, Inc. (SAC 140068).
8. Waitsfield-Fayston Telephone Co., Inc., d/b/a Waitsfield Telecom, d/b/a Champlain Valley Telecom (SAC 140069).
9. FairPoint Vermont, Inc., d/b/a Northland Telephone Company of Vermont, d/b/a Fairpoint New England (SAC 143331).
10. Vermont Telephone Company, Inc., d/b/a VTel (SAC 147332).

Competitive

11. RCC Atlantic, Inc., d/b/a Unicel (SAC 149001).

Verizon-Vermont is the only nonrural incumbent eligible telecommunications carrier in Vermont. Federal support to Verizon will be used in two ways:

1. The sum of \$1,345,940 per year (equal to support received in 1999) has been incorporated into the calculation of the company's overall rates. This base amount will continue to support lower rates for basic service in the coming year.
2. The remaining federal support will be distributed through an explicit credit for residential and business customers. Pursuant to a 1999 agreement reached between Verizon-Vermont and the Vermont Department of Public Service, each Verizon residential and business customer will receive a monthly credit on his or her bill titled "Federal Universal Service High Cost Fund Credit." The credit amounts will be set to fully distribute the expected additional federal support to be received by Verizon in the coming year. As the end of the year approaches, if the projected support amount does not equal the initial estimate, a final adjustment will be made to the credit amounts. Currently the residential monthly credit is \$1.40 per line and the business credit is \$3.40 per line.

All federal support given to the remaining carriers (#2 through #11) will be available as revenue to the receiving companies. We require all of these companies to periodically file information pertaining to their receipt of federal support, as well as other information that suggests how the federal funds are used.

II. Rate Comparability

47 C.F.R. Section 54.316 requires the Board to annually review residential rates in rural areas of the state served by Verizon-Vermont, and to certify to the Federal Communications Commission whether such rates are reasonably comparable to urban rates nationwide. For the rate comparability certification, we are allowed to presume that the residential rates in "rural areas" served by Verizon-Vermont are reasonably comparable to the nationwide benchmark urban rate, if such Vermont rural rates are below \$34.58 per month.

The Vermont Public Service Board conducted the required review in 2005. We have collected rate data for "rural areas of the state" served by Verizon-Vermont, our only nonrural carrier. The Remand Order defined "rural area" as "any non-metropolitan county or county-equivalent, as identified by the Office of Management and Budget." Para. 83. Fortunately, this definition is irrelevant because Verizon-Vermont charges the same rates in all parts of Vermont. Therefore, rate data collected for the state as a whole are exactly equal to the rates in our "rural areas" as defined in the rule.

The FCC rule does not explain in detail how rates are to be measured. This is an essential question because Verizon-Vermont imposes Local Measured Service (LMS) charges. In February of 2004, the Vermont Public Service Board filed comments in response to a Further Notice of Proposed Rulemaking (FCC No. 03-249). Those comments stated that:

If the Commission goes forward with its new concept of rates-based support, rate data must be valid and reliable. This requires the Commission to collect additional data, beyond nominal rates, that affect the burden of paying for local exchange service as well as the value of that service. Oversimplified rate information can underestimate the real burden on consumers and can create perverse incentives for states and carriers. If the Commission does not solve the methodological problems described below, nationwide rate data would be at best highly random and at worst misleading and arbitrary. . . . to develop valid and reliable local rate data it should make five adjustments: usage-sensitive charges; local calling area size; customer option plans; local/toll balance; and business/residential balance. Vermont PSB Comments of 1/14/04 at 3-4.

Our comments showed that an adjustment for usage-sensitive charges is important because the Commission's standard measurement technique, which is based upon 500 minutes of local calling, may underestimate actual usage. However, the Commission has not taken any further action on that Further Notice of Proposed Rulemaking. Therefore we must determine how best to evaluate local measured service charges for the purposes of determining nationwide rate comparability.

We found that measuring local rates is a very difficult task requiring substantial judgment. First, we collected data from Verizon-Vermont concerning the rates paid by residential customers who do not subscribe to fixed calling plans. We noted that customer payments for local service varied from \$20.74 per month for customers who are not on Lifeline but who have minimum usage, to \$47.89 per month for customers who have the maximum recognized minutes of usage. We found, however, that the Verizon data is not a sufficient basis to reach a conclusion on comparability.

The Verizon data excludes customers who have opted to take calling packages such as the "Freedom Package." This package sells for \$49.95 per month, and it includes unlimited local calling, intra-state toll and inter-state toll calling. According to Verizon, 31 percent of the primary residential lines served by Verizon-Vermont subscribe to either the Freedom Package or one of several other calling packages. For these customers, Verizon does not record local usage minutes, and it is not possible to allocate a portion of the monthly calling package bill to local services. In sum, almost one-third of residential customers have opted out of rate designs that allow measurement of local rates.

Moreover, the customers who purchase packages such as the "Freedom Package" cannot be assumed to be typical of the residential customer base. Because Verizon-Vermont's other customers pay a sizeable per-minute local measured service rate, those customers with high local usage have an incentive to switch to such fixed-price plans. Therefore, we cannot exclude these customers from our analysis because that would bias the sample and would produce an invalid estimate of local rates.

Second, the Verizon data included Lifeline customers, a group excluded from the FCC's *Reference Book* analysis. This made the data unreliable as an estimate of non-Lifeline rates. We attempted to exclude Lifeline customers from the analysis, but we cannot assert that the results are reliable.

As the Public Service Board has stated in previous rate reviews, we believe that the Commission's published urban benchmark rate of \$34.58 does not comply with law. That figure is two standard deviations above the mean urban rate. Two and one-half years ago the Tenth Circuit rejected this methodology as incompatible with the Commission's statutory duties under

section 254. As we said in subsequent comments, a benchmark rate cannot satisfy the statute if it is higher than 125 percent of the national urban average rate.

Data in the Commission's 2006 *Reference Book* show that average urban rates are \$24.74. 125 percent of that figure is \$30.92. Considering all of the above factors, we estimate that the average Vermont residential customer pays significantly more than \$30.92 per month for local service. This includes all fixed charges (including the federal SLC), taxes and universal service charges. It also recognizes the explicit credit given monthly to Verizon-Vermont customers as the result of federal universal service payments. Therefore, we conclude that the rates of Verizon-Vermont customers are not reasonably comparable to the urban rates of customers nationwide.

A state that certifies that its rates are not reasonably comparable must fully explain its rate comparability analysis and provide data supporting its certification, including but not limited to residential rate data for rural areas within the state served by non-rural ILECs. As explained above, residential rates for Verizon-Vermont are uniform throughout Verizon-Vermont's area. They therefore are the same rates that apply in any and all subsets, including "rural areas."

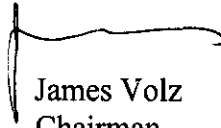
When a state certifies that the rates are not reasonably comparable, it must also explain why the rates are not reasonably comparable and explain what action it intends to take to achieve rate comparability. Rates for Verizon-Vermont are not reasonably comparable because Verizon-Vermont receives insufficient federal support from the Commission. As the Vermont Public Service Board has argued in many filings in Docket 96-45, Verizon-Vermont rates are high because Verizon-Vermont serves a rural, sparsely populated area in a challenging climate and over difficult terrain. This inevitably leads to high loop and switch costs, on average, across all Verizon-Vermont customers.

Vermont does not contemplate taking any additional actions within the state to obtain reasonably comparable rates. Any such action would be pointless. As noted above, Verizon rates already are uniform throughout its study area. Even if Vermont were to adopt a new explicit state universal service fund the benefits would be negligible. Verizon-Vermont serves approximately 85 percent of wireline customers in the state. Therefore on an aggregate basis the added bill surcharges to fund such a new program would almost entirely offset the benefits. Costs would still be paid by the same pool of customers, and the average rate, which is too high, would not be reduced.

Vermont intends to continue to advocate for additional federal support for the customers of Verizon-Vermont. Over the last 14 years, the Vermont Public Service Board has repeatedly argued that federal support to these customers has been insufficient. We continue to believe that tens of thousands of Vermonters are disadvantaged, as against similarly situated customers in other states, because a majority of Vermont's rural customers happen to be served by a large

company, and because federal support unfairly discriminates against such customers. We intend to continue to argue to the Commission, the courts and to Congress that the majority of Vermont's customers need additional federal support under 47 U.S.C. § 254 in order to achieve comparable rates.

Sincerely,


James Volz
Chairman



cc: Christopher Campell (Vt. DPS)
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